

PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
IMET0050

First named inventor: Hockersmith, et al.

Application No.: 09/766,427

Art Unit: 1651

Filed: January 18, 2001

Examiner: Gitomer, Ralph

Title: A Method of Producing a Glycemic Profile of Predetermined Shape in a Test Subject

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☒ Small entity-fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in

the form of Petition and Extension fees (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_
- ☒ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_
- ☐ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/84 (11-03)

Approved for use 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

March 9, 2004

Date

Telephone  
Number: 650-474-8400

Signature

Michael A. Glenn

Typed or printed name

3475 Edison Way, Suite L.

Address

Menlo Park, CA 94025

Address

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: Petition for Extension of Time

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

March 9, 2004

Date

Rhonda Dunn

Signature

Rhonda Dunn

Type or printed name of person signing certificate

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Hockersmith

Serial No.: 09/766,427

Filed: January 18, 2001

For: A METHOD OF PRODUCING A  
GLYCEMIC PROFILE OF PREDETERMINED  
SHAPE IN A TEST SUBJECT

Attorney Docket: IMET0050

Group Art Unit: 1651

Examiner: R. Gitomer

March 9, 2004

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Assistant Commissioner for Patents  
Mail Stop Petition  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the U.S. Commissioner of Patents and Trademarks to revive the subject patent application based upon Unintentional Abandonment.

This application became abandoned on October 31, 2003 after a failure to respond to the final rejection mailed July 31, 2003. Applicant filed a continuing application, Ser. No. 10/746,352 on December 23, 2003 that claims priority from the present application. When the continuing application was filed, applicant inadvertently neglected to pay extension fees to keep the parent application active. This petition is filed to establish co-pendency with the continuing application.

The Commissioner is authorized to charge the Petition to Revive fee and any other fees which may be due to our Deposit Account 07-1445 (Order No. IMET0050). A copy of this sheet is enclosed herewith for such purpose.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

these statements made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,



Michael A. Glenn  
Reg. No. 30,176

Customer No. 22862